

**UNITED STATES OF AMERICA  
DEPARTMENT OF HOMELAND SECURITY  
UNITED STATES COAST GUARD**

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**UNITED STATES COAST GUARD,**

Complainant,

vs.

**MICHAEL BIRKE,**

Respondent.

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Docket Number 2023-0020  
Enforcement Activity No. 7614651

**ADMISSION ORDER**

**Issued: March 21, 2023**

**By Administrative Law Judge: Honorable Timothy G. Stueve**

**Appearances:**

**CWO David Morra  
Sector NOLA**

**For the Coast Guard**

**Michael Birke, pro se**

**For Respondent**

On or about February 17, 2023,<sup>1</sup> the United States Coast Guard (USCG or Coast Guard), filed a Complaint against Michael Birke (Respondent) alleging one count of violation of misconduct under 46 U.S.C. § 7703(1)(B) and 46 C.F.R. § 5.27.

In the Complaint, the Coast Guard alleges:

1. On November 25, 2022, Respondent was employed by Crowley Maritime Corporation, and subject to their policies.
2. On November 25, 2022, NCL, Crowley Maritime Corporation had a policy prohibiting employees from refusing to submit to required alcohol tests.
3. On November 25, 2022, Respondent refused a reasonable suspicion alcohol test, in violation of Crowley Maritime Corporation Drug and Alcohol Procedures.
4. Respondent's violation of Crowley Maritime Corporation Drug and Alcohol Procedures is misconduct, as described by 46 U.S.C. § 7703(1)(B) and defined by 46 C.F.R. § 5.27.

Based on these facts, the Coast Guard proposes four (4) months outright suspension of Respondent's Merchant Mariner Credential (MMC).

On or about March 7, 2023, Respondent filed his Answer, admitting to all jurisdictional and factual allegations as stated in the Complaint. Respondent also agreed to the proposed order of four (4) months outright suspension, with no additional conditions stipulated.

Upon consideration of the record, I hereby FIND that the allegations in the Complaint are **PROVED BY ANSWER**. I find that on November 25, 2022, Respondent committed an act of misconduct, as described by 46 U.S.C § 7703(1)(B) and defined by 46 C.F.R. § 5.27.

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<sup>1</sup> The Complaint in this case has two mismatching dates that indicate when the Complaint was filed: January 17, 2023 and February 17, 2023. CWO Morra clarified that the January date is incorrect and that the Complaint was filed on February 17, 2023, to match the date in his digital signature on the Complaint's Certificate of Service.

**SANCTION**

I have carefully reviewed the Complaint and Answer and find that the proposed sanction is appropriate under the provisions of 46 C.F.R. § 5.569.

**WHEREFORE,**

**ORDER**

**IT IS HEREBY ORDERED**, Respondent's Coast Guard issued MMC is suspended outright for four (4) months, commencing on the date Respondent's MMC is deposited with USCG Sector NOLA.

**PLEASE TAKE NOTICE**, service of this decision on the parties and/or parties' representative(s) serves as notice of appeal rights set forth in 33 C.F.R. §§ 20.1001 – 20.1004. (Attachment A).

Done and dated March 21, 2023, at  
Alameda, California



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**Timothy G. Stueve**  
**Administrative Law Judge**  
**U.S. Coast Guard**